

## AMENDMENT TO WATER RIGHT LEASE AGREEMENT

This AMENDMENT TO WATER RIGHT LEASE AGREEMENT is made and entered effective between T & K Farms Inc. (hereinafter referred to as “T & K”), Phillip E. Johnson and Peggy J. Johnson (hereinafter referred to as “Johnsons”) and the Montana Department of Fish, Wildlife and Parks (hereinafter referred to as “FWP”).

WHEREAS, T & K, Johnsons and FWP entered into a WATER RIGHT LEASE AGREEMENT in 2017 for FWP to lease T & K and Johnsons’ Teton River water rights and temporarily change them to instream flow;

WHEREAS, the WATER RIGHT LEASE AGREEMENT provided that water commissioner fees incurred by FWP would be deducted from the annual payment to T & K; and

WHEREAS, the water commissioner fees for the lower Teton River have been considerably higher than anticipated and would result in little or no annual payment being made to T & K which was not the intent of FWP in entering into the WATER RIGHT LEASE AGREEMENT.

THEREFORE, the FWP, T & K and Johnsons agree as follows:

1. Paragraph 2 of the WATER RIGHT LEASE AGREEMENT is amended to read as follows:

2. Lease Consideration. In consideration of the rights leased to FWP by T & K and Johnsons pursuant to this Agreement, FWP shall pay T & K, on an annual basis, \$6.00 per acre-foot of water protected as instream flow in the Teton River at the historic point of diversion in that year, as measured at or near the historic irrigation point of diversion. However, notwithstanding the foregoing, the maximum lease payment for any one year shall be \$6.00 per acre-foot of T & K and Johnsons portions of the total historic diverted volume determined by the Department of Natural Resources and Conservation (hereinafter referred to as “DNRC”) in the change authorization for Claims 41O 171394 00 and 41O 178054-00. FWP is responsible for all water commissioner charges. Water commissioner charges incurred by FWP in each year up to a maximum of \$2.00 per acre-foot shall be subtracted from the payment for that year. FWP shall make payment to T & K for the preceding irrigation season by November 30<sup>th</sup> of the same year or within 30

